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16 UNITED STATES DISTRICT COURT  
17 NORTHERN DISTRICT OF CALIFORNIA  
18 OAKLAND DIVISION

19 ORACLE USA, INC., *et al.*,  
20 Plaintiffs,  
21 v.  
22 SAP AG, *et al.*,  
23 Defendants.

CASE NO. 07-CV-01658 PJH (EDL)

**DECLARATION OF JOHN A.  
POLITO IN SUPPORT OF ORACLE'S  
MOTION FOR PARTIAL SUMMARY  
JUDGMENT**

24 Date: May 5, 2010  
25 Time: 9:00 am  
Place: 3rd Floor, Courtroom 3  
Judge: Hon. Phyllis J. Hamilton

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Case No. 07-CV-01658 PJH (EDL)

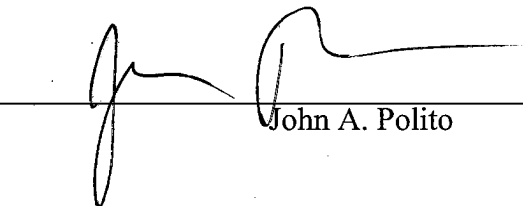
1 I, John A. Polito, declare as follows:

2 1. I am an associate at Bingham McCutchen LLP, counsel to Plaintiffs in this  
3 action. I have personal knowledge of the facts set forth in this declaration and would  
4 competently testify to them if called upon to do so.

5 2. On February 17, 2010, I directed that copies of three PS\_HOME backups,  
6 H702RHIM\_20060705\_1307, HR751CSS\_20070404\_0927, and HR810DMO\_20050315\_1158,  
7 be extracted from Encase and made available to Oracle employee Norm Ackermann. These  
8 backups were produced by Defendants as BU02\_G\BU02\_G4\  
9 psbackup\tn-dell2650-01\psoft\backups\h702rhim\_20060705\_1307.ZIP on TN-OR03712541  
10 (TN Hard Drive 46), BU02\_G\BU02\_G1\psbackup\yogi\ps\_home\hr751css\_20070404\_0927.zip  
11 on TN-OR03711978 (TN Hard Drive 44), and TNWTS01\_D\_Z\_C\TNWTS01\_Z\TN Archive\  
12 TNBK0166\PSHOME\HR810DMO\_20050315\_1158.ZIP on TN-OR03727372 (TN Hard Drive  
13 55), respectively.

14 I declare under penalty of perjury that the foregoing is true and correct and that  
15 this declaration was executed on March 3, 2010, at San Francisco, California.

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John A. Polito